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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,913	05/02/2001	Elliot Klein	103413a	6838

7590

02/10/2005

Michael B. Fein
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1900 Market Street
Philadelphia, PA 19103

EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,913

Applicant(s)

KLEIN, ELLIOT

Examiner

Michael J Fisher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-8,11-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8,11-17 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "any said person" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,6-8,11-17 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 6,018,719 to Rogers et al. (Rogers).

As to claim 1, Rogers discloses a method for expediting warranty service (title), with a unique identifier (serial number), providing consumer purchaser identification (fig 6), the warranty is registered with the manufacturer or other warrantor (fig 5, blocks 326-

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328-330 and 326-334), and would authorize a warranty delivery return if the warranty were in force (blocks 332,334).

Rogers does not, however, teach an RFID transponder. Rogers does teach using a UPC reader (block 320 as best seen in fig 5). An RFID would be merely a different device to accomplish the same result (scanning information about a product) and would therefore, not be patentably distinct. As the retailer would ship the returned item (deliver the package) to the warrantor, the retailer would be considered a "package delivery service".

As to claim 2, the return location has access to the data (fig 6).

As to claim 6, the information including date of purchase is available at the point of purchase (fig 5).

As to claim 7, Rogers does not teach whom to charge for the access to the information. It would have been obvious to one of ordinary skill in the art to charge the manufacturer for the service as the warranty is from the manufacturer and they would pay all costs associated therewith.

As to claims 8 and 12, Rogers does not teach using the Internet (web service). Rogers does, however, teach using a computer and modem (col 3, lines 54-58) and further notes that "any appropriate communication channel may be used" (col 3, lines 57-58). Therefore, it would have been obvious to one of ordinary skill in the art to use the Internet to avoid costs associated with maintaining a closed network.

As to claims 11 and 19, it is very well known in the art to use overnight delivery to deliver packages therefore, it would have been obvious to one of ordinary skill in the art

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to ship the packages overnight to the warrantor to increase customer satisfaction by having the product repaired and returned as quickly as possible.

As to claim 13, it would have been obvious to one of ordinary skill in the art to use an antenna and transponder as these are very well known in the art as good attachments to transmit information from RFID transmitters.

As to claim 14, it would have been obvious to one of ordinary skill in the art to use an adhesive layer to attach the RFID transmitter to ensure it stayed attached to the product and to ease installation of the RFID transmitter.

As to claim 15, it is very well known in the art to have a release liner on adhesive surfaces to ensure that they don't stick to the wrong surface. Therefore, it would have been obvious to one of ordinary skill in the art to use a release liner to ensure that the RFID transmitter is only adhered to the proper surface.

As to claim 16, Rogers discloses using an SKU number. It would have been obvious to one of ordinary skill in the art to print an SKU number (indicia) on a surface so that if the RFID transmitter doesn't work the information would be backed up.

As to claim 17, the transponder would have the information (serial number) therein, so would inherently have a memory.

As to claim 20, it would have been obvious to one of ordinary skill in the art to use instructions on the RFID transmitter so that a user would know how to use it.

As to claim 21, it is very well known in the art to affix indicia that indicate the owner of an object in case the item is lost. Therefore, it would have been obvious to one of ordinary skill in the art to affix ownership information in case the item was lost.

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As to claim 22, it is very well known in the art to offer a reward for lost items. Therefore, it would have been obvious to one of ordinary skill in the art to affix a reward for returning a lost item, as this would increase the likelihood that the object would be returned.

Allowable Subject Matter

In the interests of compact prosecution, the examiner would like to point out that the prior art, while teaching shipping packages, does not teach a third party shipper, such as companies like Federal Express or United Package Service, being involved in ascertaining the warranty status of an item. The prior art only discloses the retailer or manufacturer as having access to the information. While claims 11 and 19 appear to be meant to claim this, it is incumbent on the examiner to interpret the claims as broadly as possible and therefore, to read the limitations as claiming merely the retailer as shipper.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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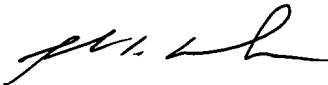
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF 
2/7/05


JOHN G. WEISS
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